

FIRST REGULAR SESSION

# HOUSE BILL NO. 324

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES RICHARD, SAGER, STEVENSON, DIXON, RECTOR,  
VIEBROCK, WILLOUGHBY, SKAGGS, LeVOTA (Co-sponsors), EMERY, HUNTER, BIVINS,  
BYRD AND BISHOP.

Read 1<sup>st</sup> time January 30, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0829L.02I

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### AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to utility infrastructure and purchasing power.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 393, RSMo, is amended by adding thereto one new section, to be  
2 known as section 393.157, to read as follows:

**393.157. 1. It is the purpose and intent of the general assembly to encourage the  
2 development and construction of utility infrastructure in sufficient quantity to ensure  
3 reliable and affordable utility service to Missouri customers and to provide economic  
4 benefits to the state. The construction of such projects enhance the public health, safety  
5 and welfare, create employment, and foster a stable tax base for the citizens of the state.  
6 The general assembly finds that it is necessary and proper that public utilities be provided  
7 with the information required to determine how the installed cost of new utility  
8 infrastructure will be recovered in retail rates over the useful life of the plant as a means  
9 of giving the necessary assurance to the financial community that a reasonable return will  
10 be realized on the substantial capital commitment such projects represent and for other  
11 reasons as the utility may need in order to proceed with such significant investments. It  
12 is also the purpose and intent of the general assembly that electrical corporations be  
13 provided with the information needed to determine how the costs associated with  
14 purchased power contracts required to meet their capacity needs will be recovered in retail  
15 rates over the terms of such purchased power contracts in order to assure the financial  
16 community that electrical corporations will have the ability to meet their contractual  
17 obligations.**

18           **2. As used in this section, the following terms mean:**

19           **(1) "Company", an electrical corporation or a gas corporation;**

20           **(2) "Contract", a company's contract for the purchase of electric power in the**  
21 **amount of five million dollars or more;**

22           **(3) "Cost", the total installed cost of the facility;**

23           **(4) "Facility", any electric plant or gas plant with an estimated total investment or**  
24 **leased cost of five million dollars or more for companies serving up to one hundred**  
25 **thousand customers in this state, twelve million dollars or more for companies serving one**  
26 **hundred thousand to one million customers in this state, and twenty-five million dollars**  
27 **or more for those companies serving more than one million customers in this state;**

28           **(5) "Stake", a company's whole or fractional ownership share or leasehold or other**  
29 **proprietary interest in a facility.**

30           **3. Prior to undertaking the construction of, or participation in, a new facility or**  
31 **prior to entering into a new contract, a company may file with the commission a petition**  
32 **for a determination of the ratemaking principals and treatment that will apply to the**  
33 **recovery in retail rates of the cost to be incurred by the company to acquire its stake in the**  
34 **facility during the expected useful life of the facility or the recovery in retail rates of the**  
35 **contract during the term thereof. The commission shall thereafter issue an order setting**  
36 **forth the ratemaking principles and treatment that will be applicable to the company's**  
37 **stake in the facility or to the contract in all ratemaking proceedings on and after such time**  
38 **as the facility is placed in service or the term of the contract commences. The ratemaking**  
39 **principles and treatment applicable to the facility or contract shall be utilized by the**  
40 **commission in all proceedings in which the cost of the company's stake in the facility or the**  
41 **cost of purchased power under the contract is considered. If the commission fails to issue**  
42 **a determination within one hundred eighty days of the date a petition for a determination**  
43 **of ratemaking principles and treatment is filed, the ratemaking principles and treatment**  
44 **proposed by the petitioning company shall be deemed to have been approved by the**  
45 **commission and shall be binding for ratemaking purposes during the useful life of the**  
46 **facility or during the term of the contract.**

47           **4. The company shall have twelve months from the effective date of the**  
48 **determination of the commission to notify the commission whether it will construct, or**  
49 **participate in the construction of, the facility or whether it will perform under terms of the**  
50 **contract. If the company notifies the commission within the twelve-month period that the**  
51 **company will not construct, or participate in the construction, of the facility, or that it will**  
52 **not perform under the terms of the contract, then the determination of ratemaking**  
53 **principles and treatment pursuant to subsections 2 and 3 of this section shall be of no**

54 further force or effect, shall have no precedential value in any subsequent proceeding, and  
55 no adverse presumption shall be applied in any future proceeding as a result of such  
56 notification.